



FIRE

Foundation for Individual
Rights and Expression

May 31, 2024

Via ECF

Hon. Nelson S. Roman
United States Courthouse
Courtroom 2018
300 Quarropas St.
White Plains, NY 10601-4150

Re: *O.J. v. Chappaqua Central School District*, 24 Civ. 2830 (NSR)
UNOPPOSED Motion to Seal Exhibits A, B, D, E, and F

Dear Judge Roman:

Under Federal Rule of Civil Procedure 5.2(d), minor Plaintiff O.J. requests that the Court permit him to file under seal Exhibits A, B, D, E, and F to the Declaration of M.J. in Support of Plaintiff's Motion for Preliminary Injunction. The undersigned spoke with counsel for Defendants, who do not oppose this motion to seal.

Sealing these records is appropriate because it "is essential to preserve higher values" than the public's "qualified First Amendment right . . . to access certain judicial documents" and is "narrowly tailored to serve that interest." *Lugosch v. Pyramid Co. of Onondaga County*, 435 F.3d 110, 120–26 (2d Cir. 2006). O.J. is filing on the public docket slip sheets indicating that these documents have been provisionally filed under seal:

- Exhibit A, a copy of the anonymous complaints submitted on October 17, 2022, through the School District's "Anonymous Alerts" website.
- Exhibit B, a copy of the "Danger Assessment and Intervention Plan screening" finding "No Threat" completed by a school psychologist at the direction of School District administrators on October 18, 2022.
- Exhibit D, a copy of the October 18, 2022 proposed suspension letter from Principal Sepe.
- Exhibit E, a copy of the October 21, 2022 revised proposed suspension letter from Principal Sepe.
- Exhibit F, a copy of the June 23, 2023 letter from Superintendent Ackerman denying O.J.'s final appeal of his suspension.

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O.J.’s privacy interests exceed the public’s interest in viewing these records. To start, these exhibits are “educational records” whose privacy is protected under the Family Education Rights and Privacy Act (“FERPA”). *See* 20 U.S.C. § 1232g(a)(4) (defining educational records); *id.* § 1232g(b)(1) (detailing privacy protections for educational records). The purpose of FERPA is to protect students’ “right to privacy by limiting the transferability (and disclosure) of their records without their consent.” *In re Grabis*, No. 13-10669-JLG, 2018 WL 6132045, at *11 (Bankr. S.D.N.Y. Nov. 20, 2018). Accordingly, district courts in the Second Circuit have ordered the sealing of documents protected by FERPA. *See B.J.S. v. State Educ. Dep’t*, No. 08-CV-513A F, 2010 WL 502796, at *4 (W.D.N.Y. Feb. 9, 2010) (ordering that “exhibits and records containing [Plaintiff’s] medical, school, or other records . . . be filed under seal”); *Marseet v. Rochester Inst. of Tech.*, No. 20-CV-7096FPG, 2023 WL 533288, at *1 (W.D.N.Y. Jan. 27, 2023) (finding good cause to grant sealing request concerning FERPA records).

Second, each exhibit contains O.J.’s personally identifiable information: either his name, address, or both, as well as other information that would make it possible to determine his identity.

Third, Exhibit B is a psychological evaluation that reveals protected health information. Courts in the Second Circuit “routinely seal medical records.” *Anthony M. v. Wright*, No. 07-CV-6040-FPG, 2018 WL 5619832, at *2 (W.D.N.Y. Oct. 30, 2018) (citing cases).

Fourth, Exhibits A, D, E, and F allege or insinuate that O.J. said offensive words and phrases that he never said. Disclosure of these allegations without context—particularly when O.J. is 17 years old and his name may be revealed at a later point in the proceedings—risks significant harm to his reputation and post-secondary educational and career prospects.

Therefore, O.J. respectfully requests permission to file these documents under seal. A proposed sealing order is attached. Copies of Exhibits A, B, D, E, and F will be submitted to the Court and Defendants’ counsel via ECF.

Respectfully submitted,

/s/ Colin P. McDonell

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FOUNDATION FOR INDIVIDUAL RIGHTS

AND EXPRESSION

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cc: All Counsel of Record (via ECF)